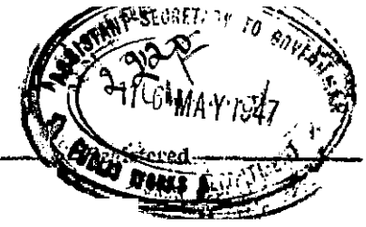
P.W (194 /) Department.

M 4 SERIES.

G.O. NO. 4034

Dated 28 11 1947

[Despatch Abstract.]



Department

From (Name) N.S.Arunachalam Esq., O.B.E.: I.C.S.
Designation Registrar of Cooperative Societies, Chepauk, Madras.
Station 9.47. A-

Received
To

The Secretary to Government
Public works Department,
Fort St.George, Madras.

Enclosures:

No. Rc.20392/46 S1 dated 1-5-47. 194

Sir

Sub;- Ports Mangalore Land leased to South Kanara cooperative wholesale stores - levy of rent-revision requested.

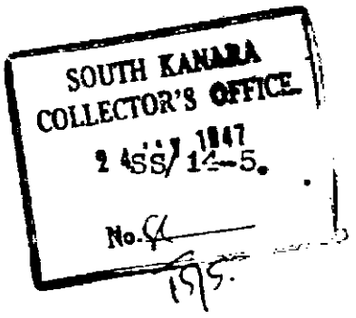
Ref;- 1. G.O.No.Ms.753 Public works dated 18-3-47.
2. Government Memo No.578-A 11/46 .3 food dated 10-4-46
3. Appeal petition of south kanara Central cooperative wholesale stores reference No.Adm 1/46.G.D. dated 21-4-47.

I forwarde herewith the appeal petition of the south kanara wholesale stores Ltd Mangalore cited as item 3 containing a request for the revision of the order contained in the G.O. cited as item 1. In the G.O. cited Government have directed that the ground rent at the Port schedule of rates should be recovered from the southKanara central cooperative wholesale stores Ltd., for the period of occupation of the Port land in the south reclamation area at the Port of Mangalore from 1-1-46.

The Naval Fuelling base at Mangalore was taken temporary possession of by the south Kanara central cooperative wholesale stores from the Military authorities from 1-1-46. In connection with the arrangements for despatch of 6000 tons of rice to Malabar the stores required spacious godowns and open yard adjoining the same. It therefore, applied for sanction for temporary occupation of the Naval fuelling base and on the collector's recommendation succeeded in getting it after some correspondence with the Revenue, Port & Military authorities. The Government considered the question whether the stores are to be treated as on ordinary civil tenant acting as agents of the Government on a profit making basis(in which case a high rental should be paid by the stores) or whether the storage should be regarded as a Government project. The Government decided in their memo No. 578 (A II/46 dated 10-4-46 cited as item (2) that there was no legal objection to treating the storage by the stores as a Government project and ordered the collector, south kanara to take over the premises formally on behalf of Government for the period already occupied and for which it was required further by the stores and to allow the stores to occupy the premises with retrospective effect. In as much as Government have conceded that the storage is a Government project it is requested that G.O.No.MS.753 (Public works Department) may be cancelled and the stores allowed free occupation of the land.
In this connection I may state that the south kanara central cooperative wholesale stores is the sole agent of Government for the procurement and distribution of paddy and rice for the entire district. It has also been acting as the sole agent of Government for export from & import into the district of food grains on Government accounts. In view of the valuable services to stores has been rendering to the public during these critical days of food shortage by undertaking and successfully carrying on the procurement and distribution work entrusted to it its liability on account of the general rental may not be pressed by Government. If the Government however, consider it necessary to collect rent from the stores, they may be pleased to order the payment of a token rent in place of the heavy imposition of about Rs.6000/-

P.T.O.

I request that Government may be pleased to consider the appeal petition of the South Kanara Co-operative wholesale stores favorably and permit the stores to enjoy a concession in view of the valuable services it has been rendering to the public.



for Registrar.

P.W. Dept

Endt No. 2226 F/47-1 dt. 22.5.1947

A-8

Referred to the Collector of South Kanara for remarks which should be submitted through the Presidency Post Office Madras.

for Secy to Govt.

22/5/47

Ref:No.Adm.1/46-G.D

Office of the S.K.C.C.W.Stores,Ltd.,
General Department,Bunder,Mangalore.
Dated: 21st April 1947.

From:
Sri M.Shiva Rau,
Residen[illegible]MANGALORE

SOUTH KANARA
COLLECTOR'S OFFICE.
24 APR 1947
No.
Through:

To:
The Secretary,
Government of Madras,
Public Works Department,
Fort St.George, MADRAS.

The Registrar of Co-op.Societies,
Madras.

The Dy.Registrar of Co-op.Societies,
Mangalore.

Sir,

Sub: Ports- Mangalore- Land in occupation of the S.K.C.C.W.Stores- Levy of rent- Government Order for Review of- Requested.

Ref: G.O.Ms.753 dated 18th March 1947.

****

Being highly aggrieved by the service of a Demand Notice dated 6-4-47 by the Port Officer,Mangalore for payment of Rs.5,986-4-0 as ground rent for the period of occupation from 1-1-46 to 31-12-47 in respect of the Naval Fueling Base in the Mangalore Bunder in our occupation, agreeably to the Government Order cited above, I submit that the order may be revised and the Demand Notice directed to be withdrawn for reasons set out below:-

2. The grounds on which I rely and which will be elaborated below are:

(1) That no rent is leviable as there was no lease either previously agreed or understood knowingly.

(2) That this Government Order is contrary to the previous Government Memorandum No.578 U/46-3 Food Dept.dated 10-4-46 in which the occupation and user of the lands and buildings by our Stores for storage of foodgrains has been decided to be treated as a Government project.

(3) That even in case any rent is deemed to be leviable, it is not competent to charge at the high Port Schedule rates but should be specially fixed on a token basis.

3. First point: The plot in question is a portion of T.S.No.212 of Casba Bazaar village, Mangalore town in the South Reclamation area at the Mangalore Port which was requisitioned by the Collector of South Kanara on 15-12-1942 for the purpose of a Subsidiary Fueling Base and made over to the Military authorities who put up on it two temporary storage sheds, officer's quarters with adjuncts and a false wooden quay at the river side. Towards the end of 1945 the Military authorities intimated to the Collector that they no longer required the installation for defence purposes and accordingly the Collector in his Ref:C.No.12704-45(Special) dated 10-11-1945 sent round a Circular letter to this Stores as well as to all the Heads of Departments in the district including the Port Officer,Mangalore,enquiring whether the buildings were wanted for any of their purposes. At the time, our Stores was suffering from acute want of storage accomodation with attached yard for the movement and unloading of lorries bringing in stocks of rice and paddy from our up-country depots and situated close to the Railway Station whence the stocks had to be despatched to Kasargod taluk and more especially to the ever-scarce Hosdrug Sub Taluk and particularly also to Malabar. Hence to overcome this handicap and to step up effecient food service, I applied to the Collector in my Ref:1825/45-F dated 6-12-45 to permit use of the Military buildings for temporary storage of foodgrains specially for Malabar export. The Collector wrote to the Military authorities in his L.Dis.12704-45 dated 14-12-45 that the buildings may be made over to us on terms to be settled by negotiation and we followed up by addressing the same Military authorities on 22-12-45 with the same request. In their communication dated 28-12-45 the Military Authority agreed and permitted our immediate occupation of the buildings. Possession was formally made over to us on 31-12-45 and on 1-1-46 we entered into physical possession. There were no further negotiations for settling terms and conditions of our occupancy and this important item of business was hung up.

P.T.O.

4. The initial period of occupation was only for three months i.e. till 31-3-46 with liberty to apply for extension if required. As we found we could not get on if turned out, we applied on 24-2-46 to the Military Authorities for an extension by 3 months i.e. till 30-6-46. This drew not elicit any reply. The matter rested there and we have continued in possession till this day- the only changes worthy of note in this connection being that, agreeably to the directions in Government Memorandum No.578 U II/46-3, Food Dept.dated 10-4-46, the Collector took over the premises formally on 24-5-46 on behalf of the Government for the period already occupied and for the further period required by our Stores and allowed us to occupy the premises with retrospective effect. In thus formally taking over from Military authorities and while making over to us, the Collector permitted our occupation till 31-12-45. On my application dated 4-10-46 the Collecto in his Ref:C.No.P5-3664/46 dated 15-10-46 was pleased to extend the period of occupation till 31-12-47.

5. All along, there has not been even a whisper of our having to pay any rent. This question was not raised at all. That being so, after such a long period of laches and inaction, and without giving us a direct and specific apportunity to show cause why we should not be charged rent, the precipitate decision of Government in the Order cited above has sprung a surprise on us. We appeal, therefore, for a kind reconsideration of the matter in a liberal spirit untainted by considerations of revenue on technical grounds. Leaving aside technicalities, the simple point emerging out of all this affair is whether it is legally competent and otherwise fair and equitable to let into possession a party(apart from its being a Government Agent working a Government project) without any notice of liability to pay rent and without even treating the tenure as a lease, allowing it to be in possession for nearly 15 months and then suddenly imposing on it a liability to pay rent- that too at the high Port Schedule rates? The obvious answer is NO. The fair and equitable course, even for an ordinary fair-minded landlord dealing with a civil tenant is to notify his intention to charge rent in future giving him the option to clear out if he is not agreeable to pay as demanded. In this case, there is no option what-so-ever- the G.O. has a retrospective effect and it is in effect a peremptory decree to pay. I submit that we deserve better and more considerate and fair treatment, at least in consideration of our past publicly acknowledged Yeoman's service to Government. If only this is remembered and duly recognised, the occupation, not only during the past period but right up to the extended period of permissive occupation(till31-12-47) should be treated, not on terms or basis of a lease at all, but as by a Government Department itself. The contention that our Stores is not a department of Government as contemplated in para 88(b) of the Madras Port Manual and is therefore not eligible for rent-free occupation of port lands, is untenable for two reasons:(1)the Food storage work is essentially of Government and our Stores is a set up of Government for this work done under its control and direction at every step and is a limb of Government, a de facto (though not de jure)department of Government- a cheap device doing the work done by a host of Government Special Officers with Government godowns elsewhere and (ii)we are not holders of port land,as Government have intervened,taken possession and let us into possession.

6. II Point: The conflict between the Food Department Memorandum of 10th April 1946 and the present Government Order dated 18th March 1947 has been left unsolved and unexplained. After obtaining legal opinion and,as is self-evident, with due deliberation, Government held that the food storage by the Stores was a Government project and that it should not be treated "as an ordinary civil tenant acting as Agents of Government on a profit-making basis(in which case a high rental should be paid by the Stores)". This decision of Government has been lightly brushed aside in passing the G.O. of 18th March 1947. It has not even been noticed but simply ignored. I venture to submit that grounds and reasons should have been given and the previous decision specifically over-ruled. As it is not over-ruled, the former decision stands and our Stores is entitled to its unequivocal protection. I may be excused and I should not be considered to flout the order of Government if I decline to pay, replying on the dictum of the Government Memorandum of 10th April 1946. So long as that stands unabrogated, we cannot be called upon to pay- especially at the Port Schedule rates which Government themselves have held to be in-applicable to us.

(Contd.)

7. III Point: Passing on to the third and last point, I submit that, even assuming that somehow we must be made to pay, the levy at the distressingly high Port Schedule rates will be harassing and we cannot but signal a S.O.S. The 10th April Government Memorandum clearly lays down that we are not to be treated as an ordinary civil tenant and charged a high rental. I appeal to Government to respect its own decision. There is atleast one precedent in G.O.No.777 Public Works dated 16-3-44 of the levy of rent at a concessional rate even where the plot was held, unlike in our case, direct under the Port Department. In case all the submissions in the preceding paras are thrown out, I plead for a merciful and humane treatment by charging a token rent.

M.S.Shivadasa
President.

Copy submitted through the Collector of South Kanara with a request for help and support.
Copy to the Port Officer, Mangalore.

Hvs/21-4/

Copy of Government Memorandum No.578.U.II/46.3., dated 10th April 1946

Sub: Rice Storage at Mangalore -Status of South Kanara Central Co-operative Wholesale stores -Instructions - Issued

Ref: Memorandum No.8074/F.11/46.2 dated 14-2-46.
From the Registrar of Co-operative Societies, Madras Rc.No.259 / 46 S. dated 3-3-46.

It has been brought to the notice of the Government that the South Kanara central Co-operative stores are using the subsidiary fuelling base at Mangalore, with the permission of the Military authorities, for the Storage of foodgrains. In this connection a question has been raised whether the storees are to be treated as an ordinary civil tenant acting as agents of the Government on a profit making basis (in which a high rental should be paid by the stores) or whether the storage should be regarded as a Government progect. The Government have examined the question in consultation with the Registrar of Co-operative Societies Madras. They are advised that there is no legal objection to treating the storage by the stores as a Government project. The Collector of South Kanara is requested to take necessary steps to take over the premises formally on behalf of the Government for the period already occupied and for which it is required further by the stores and allow the stores to occupy the premises with retrospective effect. A report of having done so may be sent to the Industrial Adviser to the Government Madras.

R.C.C Hunt
Under Secretary to Government.

GOVERNMENT OF MADRAS
Abstract.

Ports -Mangalore -Land-Leased to South Kanara Central co-op.Wholesale stores ltd. -Levy of rent/-ordered.

~~Public Works Department.~~

PUBLIC WORKS DEPARTMENT.

G.O.No.Ms.753 dated 18th march 1947.

Read the following:- From the Presidency port officer, No.65 G1/46 dated 4-3-46.
Memorandum to the Board of Revenue (Civil supplies) No.69586-1-A-46-2 development dated 29-10-46.
From the Board of Revenue (Civil supplies)No.Z 1 2839/46-5 dated 14-1-47.

Order.

His Excellency the Governor hereby directs that the ground rent at the Port Schedule of rates, be recovered from the South Kanara Central co-operative Wholesale stores ltd., for the period of occupation of the Port land in the South reclamation area at the Port of Mangalore from 1--1-46

(By order of His Excellency the Governor of Madras)

O.Pulla Reddi
Secretary to Government.

(True Copy)
Attested
Advocate

Telegram: "FOOD"

Telephone: No. 12.

Central Co-operative Wholesale Stores, Ltd., No. L. 472

Post Box No. 124, MANGALORE.

Ref. No. Adm.1/46-G.D.

Dated 26th May 1947.

From:
Sri M.Shiva Rau,
President.

To:
The Secretary,
Public Works Department,
Government of Madras,
Fort St.George, MADRAS.

Through:
The Registrar of Cooperative Societies,
Madras.

Through:
The Dy.Registrar of Cooperative Societies,
Mangalore.

SOUTH KANARA COLLECTOR'S OFFICE 23 MAY 1947

Sir,

Sub: Ports- Mangalore- Land-in occupation of the S.K.C.C.W.Stores- Levy of rent- Review application dated 21-4-47 in respect of G.O.Ms.753 P.W.D. dated 19-5-47 and (2) No.958/47-2 d/16-5-47

In continuation of my application Adm.1/46-G.D.dated 21-4-47 for review of G.O.Ms.753 P.W.Dept. dated 18-3-47 on the basis of which the Port Officer,Mangalore sent a Demand Notice dated 6-4-47 to pay Rs.5986-4-0 for ground rent for two years 1946 and 1947 in respect of the Naval Fuelling Base in Mangalore Bunder in our occupation, I submit that the Port Officer in his letter No.1 cited above, that the amount of the Demand should be corrected from Rs.5986-4-0 to Rs.6147-8-0 as the correct revenue cess is Rs.967-8-0 (at 3 annas per rupee) and not Rs.806-4-0 as wrongly shown in the Demand Notice.

The Demand Notice was in respect of ground rent. Another Demand Notice dated 5-5-47 has been received by me on 21-5-47 claiming Rs.3096/- as rent for the buildings at Rs.258/- per mensem for the period from 20-12-46 when the plot with buildings became vested in the Port authorities, to 19-12-47. In my review petition now pending orders with Government, I have submitted in extenso the grounds for our not being liable to pay the rent demanded. Those grounds apply equally to this demand to pay rent for the buildings and I request this may be dealt with along with the Review application.

With reference to the quantum of rent demanded I submit that the Superstructure together with the jetty were purchased for Rs.12,000 in all as sanctioned in G.O.No.2913 Public Works Department dated 16-11-46. On this investment, the rent demanded is Rs.258/- per mensem i.e. the interest works out at more than 25 per cent per annum. The wooden quay is included in this and yet a seperate rent at Rs.10/- per annum is claimed as ground rent in the Demand Notice of 6-4-47.

M Shiva Rau

President.

Copy submitted through the Collector of South Kanara for favour of help and support.

Copy to the Port Officer,Mangalore.

Hvs/26-5/

258-4-0 / 3096 =

5986-4-0 / 240 / 6326

2998-12-0 / 3096-00 / 6094 =

6147-8-0 / 3096 / 92438-0

C.F. 32 (a).

Cooperative Department

From (Name) N.S.Arunachalam Esq., O.B.E., I.C.S.,
Designation Registrar of Cooperative Societies,
Station Madras.

Received Registered

To

The Secretary to Government,
Public Works Department,
Fort St.George, Madras

Enclosures:

No. R.C.20391/46 S.1 dated 23--6-- 1947

Sir,

Sub:- Ports - Mangalore - Land in occupation of the South Kanara Cooperative Wholesale stores- Levy of rent.

Ref:-1)My letter R.C.20391/46 S.1 dated 14-5-'47
2) Application Adm.1/46 G.dated 26-5-47 of the South Kanara Cooperative Wholesale stores.

In continuation of my letter cited as item (1), I forward the application of the South Kanara Cooperative Wholesale stores cited as item (2) wherein it has been represented that a demand notice for a sum of Rs 3,096/- as rent for the buildings in possession by the Cooperative Wholesale stores at Rs 258/- per mensem for the period from 20-12-46 to 19-12-47 has been sent to the stores by the Port Officer, Mangalore. It is stated that the superstructure together with the godowns were purchased for Rs 12,000/- in all and on this investment the rent demanded is Rs 258/- per mensem which works out to an interest of more than 25% per annum. Though the wooden quay is also included in this, a separate rent at Rs 10/- per annum is reported to have been claimed as ground rent. Clearly the rent demanded is out of proportion to the capital

P.T.O.

value of the building.

I request that Government may be pleased to consider the appeal petition of the South Kanara Cooperative Wholesale stores and allow the free occupation of the buildings or the payment of only a nominal ~~xxxxx~~ rent by the stores at an early date.

K Balakrishnan
18/6/47

SG.23.6. For Registrar.

SS/25/6

P.W(A)

Lr.dl. No. 2220 F/47. 2 dt. 25.6.1947

El/26.6.47 Pl/6

Referred to the Collector of South Kanara for remarks in continuation of Lr.dl No. 2220 F/47.1 P.W dated 23.6.1947.

24/6/47 25/6/47.

25/6/47

for Secy to Govt.

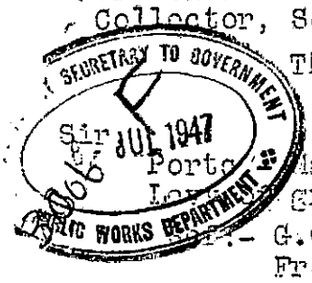
To the Collector with enclosure

L.Dis.7178/47.

S.A. Collector's Office,
Mangalore, 27--6-1947

From
J.F. Saunders Esq., MBE.,ICS.,
Collector, South Kanara.

To
The Secretary to Govt., P.W.D.
M a d r a s.



Through
The Presidency Port Officer, M a d r a s.

Sir,

Ports - Mangalore - Land leased to theS.K.C.C.W.S. Ltd., - Levy of ground rent - Revision of - orders - requested.

Ref:- G.O.No. Ms. 753 P.W.D., dated 18-3-1947.
From Government P.W.D., Endorsement No.2220 F/47-1 dated 22-5-1947.

The President,of the S.K.C.C.W.Stores Ltd., protests against the levy of ground rent at the Port schedule of rates sanctioned in the G.O. cited first above for the occupation of the Port by the S.K.C.C.W.Stores Ltd., He requests that the Government order may be revised in favour of the Stores on the following

(1) that no ground rent is leviable as there was no lease either previously agreed or understood knowingly

(2) that in Government Memo No.578 U/46-3 Food dated 10-4-1946 the stores was treated as a Government project.

and (3) that even in case any rent is deemed to be leviable it is not fair to charge rent at the high Port Schedule rates but it should be specifically fixed on a token basis.

The contentions of the President of the Stores are discussed below.

Item (1) above: There are no records in my office to show that there has been any agreement between the Port authorities and the stores regarding the payment of rent. The Stores cannot however claim immunity from the levy of ground rent according to the Provisions of the Port Manual because there is no lease deed. It is implied that the occupation of the land within Port limits is subject to the levy of ground rent as prescribed under the rules framed by the Government in the Port Manual.

Item (2) above: The stand taken by the President that the stores should be treated as a Government project and no ground rent should be levied for the period of occupation as directed in Government Memo No. 578-U-46-3 Food dated 10-4-1946. In the above Memo the Government declared that there was no legal objection to treating the storage of food grains by the S.K.C.C.W.Stores Ltd., as a Government project. But this view has to be considered to have been abandoned with the issue of G.O.No. Ms. 753 P.W.D., dated 18-3- The storage by the Stores cannot be considered as a Government project simply because the stores happens to be Collector's procurement agent in this district. It does not cease to be a Commercial enterprise because it is run on a Coop. basis.

Item (3) above: As regards the levy of a token ground rent I invite attention to the remarks of the Port Officer (copy enclosed) The Port Officer reports that the financial position of the Mangalore Landing and Shipping Fund is very weak at present due to increased operational cost of the Port. He also reports that in the draft budget for 1947-48, a deficit of Rs. 16,298/- is expected and any concession either in ground rent or in the rent of buildings would mean corresponding loss to the Mangalore Landing and Shipping Fund On the other hand, the S.K.C.C.W.Stores Ltd. was able to make a profit of Rs. 25,940-14-0 during 1944-45 and Rs. 55,088-14-0 during 1945-46.and the profits for the year 1946-47 are yet to be worked out. So there is no need to subsidise one concern at the expense of another.

In conclusion, I am of the opinion that the S.K.C.C.W.Stores Ltd., should pay ground rent at the ordinary rates as it would if it were an ordinary private concern.

-//-

The enclosures received with the Government endorsement cited second above are returned.

For Collector.

II.

ENDT. NO. 1554 8C/47-2.

F o r w a r d e d.

I agree with the remarks of the Collector of South Kanara and request that the South Kanara Central Co-operative Wholesale Stores Ltd., Mangalore, may please be directed to pay the amount of ground rent due at the Port schedule of rates.

Madras, 7 --7--1947.

Presidency Port Officer

AT/7.

The Coll's reply to the Lr dt 12 ult may be awaited till 25-8-1947

974

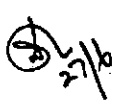
Copy of No.1566/47-1 dated 31-5-1947 of the Port Officer, South Mangalore.

Retransmitted to the Collector of South Kanara, Mangalore.

2. The financial position of the Mangalore Landing and Shipping Fund is very weak at present due to increased operational cost of the port. There is at present great demand for the land and buildings under reference at the scheduled rate of rent which is very favourable when compared with market rates of rent for similar accommodation in the vicinity. The South Kanara Central Cooperative Whole Sale Stores Ltd., has been given preference as the site is centrally situated for movement of food grains both by sea and rail and as such the S.K. C.C.W.Stores Ltd., saves substantial amounts in handling charges. Any concession in rental charges would only mean equitable loss to the Mangalore Landing and Shipping Fund which at present cannot afford.

In this connection it is also for your information that the Government in G.O.Ms. No.185 P.W.D., dated 22-1-1947 has requested the Presidency Port Officer, Madras to submit necessary proposals for improving the financial position of the several Landing and Shipping Funds and a copy of my note dated 15-5-1947 to the Port Conservancy Board, Mangalore on the subject is also herewith enclosed

---



From
J.F. Saunders Esq., MBE.,ICS.,
Collector, S.Kanara.

To
The Secretary to Government,
P.W.D., M a d r a s.

L. Dis. 8816/47/A.8 dated 4-7-1947.

Sir,

Ports - Mangalore - Land in occupation by the S.K.C.C.W.Stores
Lt. - Levy of rent.
Ref:- Government Endorsement No.2230/F-17-2 P.W.D., dated 25th June 1947.

I invite the attention of the Government to my letter L.Dis. 7178/47 dated 27-6-1947 submitted through the Presidency Port Officer, Madras. It is true that the buildings at the Naval Subsidiary Fueling depot, Mangalore were purchased by the Port Department for Rs. 12,000/- under the sanction conveyed in G.O.Ms. No.2915 P.W.D., dated 3-11-1946. But the Port Officer Mangalore reports that at present there is a great demand for the land and buildings under occupation by the S.K.C.C.W.S.Ltd., Mangalore and that the rent demanded for them is very favourable when compared with market rates for rent in similar accomodation in the vicinity. He also reports that the precarious financial position of the Madras Landing and Shipping Fund does not justify any reduction in rent. Mangalore

2. The Port is a quasi Commercial Concern and it has to depend for its existence on its earned revenue. In this case the charges levied are far less than they might be. The S.K.C.C.W.Stores, Ltd., Mangalore is also a commercial concern and it should stand on its own feet. There is no justification for subsidising it at the expense of the Port authority. If any subsidy is necessary, it should be paid for by Government out of its own revenue..

For Collector.

Copy to the Presidency Port Officer, Madras.

40/21

O.M. No 2220 F/47.3 d/ 18.7.1947

Sub. Pali - Mangalore Land in occupation by the S.K.C.C. v. Sons Ltd. Levy of rent

Ref. From the R.D.C Kandy No. 1552 C1/47.2 dt- 7.7.1947

Copies of the letter No. R.C. 20391/46 S.I dated 23.6.1947 from the Registrar of Co-operative Societies and the remarks of the Coll. of South Kanara thereon dt- No. LDC 8816/47/A.S. dated 4.7.1947 on the above subject are forwarded to the R.D.C. for remarks at a very early date.

15/7/47

16/7/47

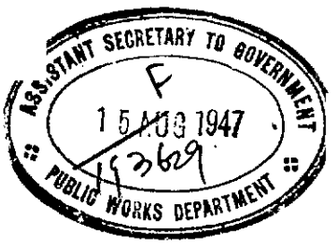
I opposite with the R.D.O. with Copies ff pp 11-12 & 17 CF

C.F. 32.

Port DEPARTMENT.

In reply, please quote number, date and short title.*

Received *Registered*



From (Name) J.M. Balmforth Esq.,

(Designation) Presidency Port Officer.

Post Box 13, (STATION) ~~Madras 1.~~

Telegraphic Address ~~Presypo~~

To

The Secretary to Government,
Public Works Department,
Madras.

2146 P/47-3
No., *dated* 14 August 1947.

Sir,

Port - Mangalore - Land in occupation by the South Kanara Central Co-operative Wholesale Stores Ltd. - Levy of rent - Government Memo No.2220-F/47-3, P.W., dated 18-7-47.

ENCLOSURES

SPARE COPIES

I have the honour to state that the contention of the Registrar of Co-operative Societies, Madras, is not correct as the salvage value of the buildings paid by this Department viz. Rs.12,000/- against Rs.53,752/- their estimated cost, cannot be taken as the market value. The salvage value paid was equal to the demolition value and this concession was given to this Department in consideration of the fact that the buildings are on a site which has been reclaimed at considerable expenses by Port authorities (Government Memo No.446/46-7, Public (General-C) dated 5-7-46) and the fact that the Military authorities did not pay any ground rent for the period of their occupation of the port lands except a nominal rent of Re.1/- per annum against Rs.2,568/- per annum due at the Port schedule of rates vide G.O.No.Ms.943, P.W., dated 4-6-1943 and the South Kanara Collector's letter read therein. A copy of the rent data statement fixing the rental of the buildings at Rs.258/- per mensem is enclosed. The rent demanded for them is very favourable to the lessee when compared with the prevailing rates of rent for similar accommodation in that vicinity. As admitted by the South Kanara Central Co-operative Wholesale Stores Ltd. in its letter to the Minister for Revenue communicated with Government Memo No.1110-F/47, P.W., dated 18-3-47 "not a bit of land or buildings are available except at fabulous prices."

2. With reference to the contention of the Stores that there was not even a whisper about rent payable - para 5 of its petition to the Government dated 21-4-47 I enclose herewith for information a copy of letter from the Collector of South Kanara to the Port Officer Mangalore stating that the temporary occupation of the buildings by the Stores was subject to payment of rent for the period of occupation - Collector's No.Ref.12724 46-A8 dated 4-1-47. This communication is later to the order of Government in their Memo No.578-U-II/46-3 ~~dated~~ Food, dated 10-4-46, directing the Collector to take over the premises formally on behalf of Government

for

for the period already occupied and for which it was required further by the Stores.

3. Port and Marine Funds are expected to be self-supporting and are not profit-making concerns like the above Stores. In any case, the Mangalore Landing and Shipping Fund cannot afford to lose the rent on the buildings and the ground-rent due. Further, the South Kanara Central Co-operative Wholesale Stores Ltd., has been making profits as already pointed out by the Collector and can therefore very well afford to pay the rents at the prescribed rates.

I have the honour to be,
Sir,
Your most obedient servant,

J. M. Balmforth

Presidency Port Officer.

AT/13.

P.W.(F).

Ports - Mangalore - Land leased to South Kanara Central Co-operative Wholesale stores Ltd. - Levy of rent - Reconsideration of orders in G.O. No. 753 Public Works, dated 18.3.1947 ~~Reformed~~. Refused.

Read again: G.O. Mis. 753, P.W., dated 18.3.1947.
From the S.K.C.C.W. Stores Ltd., Mangalore Ref. Adm.1/46-G.D., dated 21.4.1947.
From the Registrar of Co-operative Societies, RC. 20391/46-S1 dated 14.5.1947.
" " " RC. 20391/46-SI, dated 23.6.1947.
The Collector of South Kanara No. L.Dis.7178/47 dated 27.6.1947.
" " L.Dis.8616/47 A.8, dated 4.7.1947.
From the P.P.O. No. 1554 G1/47-2, dated 7.7.1947.
" " " No.2146 G1/47-1, dated 14.8.1947.

ORDER MS. 1034 Dated: 28.11.47.

The President of the South Kanara Central Co-operative Wholesale Stores Ltd., ~~are~~ is informed that there is no case for reconsidering the orders in G.O. Mis. 753, P.W., dated 18.3.1947.

To
The President of the South Kanara Central Co-Operative Wholesale Stores Ltd., Mangalore
" " Registrar of Co-operative Societies, Mangalore

p.t.o.

To The P.P.O., Madras.
" " Collr. of S.K., Mangalore.
Copy to Food Department.
Copy for file (2 copies)

Notes. P.W.D.(F).

Sub:- Ports - Mangalore - Land leased to South Kanara Central Co-operative Wholesale Stores - Levy of rent - Revision Appeal.

Ref:- From the S.K.C.C.W. Stores Ltd., Mangalore No. Adm.1/46-G.D., dated 21-4-1947.
Registrar of Co-operative Societies No. R.C. 20392/46-SI, dated 24-6-47
No. R.C.20391/46-SI./ d/ 23-6-47.
Collector of South Kanara No. L.Dis. 7178/47, d/ 27-6-47.
L.Dis.8616/47-A.3 d/ 4-7-1947.
O.M. to the P.P.O. No. 2220 F/47-3, d/ 18-7-1947.
From the P.P.O. No. 2146 G1./47-1., d/ 14-8-1947.

To A.S.

The file relates to the appeal of the South Kanara Central Copperative Wholesale Stores Ltd., Mangalore against the service of a Demand Notice by the Port Officer, Mangalore for payment of Rs. 6,147-8-0 as ground rent for the period from 1-1-1946 to 31-12-1947 in respect of the Naval Fuelling Base and against the issue of a demand notice of for Rs. 256/- p.m. as rent for the building in the area for the period from 20-12-1946 to 19-12-1947 in the Mangalore Port which is in their occupation, with reference to the orders in G.O. No. 756 P.W., dated 18-3-1947. A brief history of the case is as follows:-

The land in question belongs to the Port Department and was requisitioned by the Collector of South Kanara for the purpose of a Naval Subsidiary Fuelling Base and placed at the disposal of the R.I.N. on 16-12-1942. The site has been enclosed with barbed wire fencing by the [illegible] and it contains two pucca tiled buildings one building of medium dimensions and three small ones, with a car shed and a guard shed. As the site was no longer required by the Naval authorites, it was handed over ~~by them the~~ to the Collector of South Kanara and the Collector in turn handed it over to the South Kanara Central Co-operative Wholesale Stores Ltd., with retrospective effect from 31-12-1945 under instructions from Government in the Food Deptt. As the land was used for commercial purposes the Port officer, Mangalore claimed ground rent according to the Port Schedule of rates. It was pointed out by the P.P.O. that the S.K.C.C.W. Stores Ltd., Mangglore was not a department of the Government as contemplated in para 88(b) of the Port Mannual and as such this concern was not eligible for rent

free occupation of the land in question. The P.P.O. requested that orders might be issued for the recovery of the amount from the Stores. Even though it was previously decided in Memo. No. 578 GII/46-3, Food Deptt. dated 10th April. 1946 that the storage of food grains in the land by the Stores should be treated as a Government project, the the Collector of South Kanara, who was consulted by the Board of Rev. (C.S.) on the P.P.O.'s proposal for the recovery of ground rent, considered that the S.K.C.C.W. Stores Ltd., shou pay the rent to the Port Deptt. The Board of Revenue agreed with the views of the Collector of South Kanara though a slightly different view was taken in the past. Food Deptt. considered that for the ~~services~~ service rendered by the Society, Gc wished to protect the Society from paying a very high rent as any other civilian tenant would have to pay for the occ pation of the site and presumably ~~For this reason~~ that was the reason why it was ordered that the storage by the S.K.C.C. W. Stores Ltd., Should be treated as a Govt. project. But since the Govt. themselves were paying rent for the storage accommodation needed by them and as the Society was getting profits, from its business and none of its profits accrued to Govt. and as the Co-operative Stores might pass on the expenditure to the consumer by raising the price, Food Deptt. agreed with the suggestion of the Board of Rev.(C.S.) for the recovery of the ground rent. That Deptt. also considered that the Port Deptt. should get back the chance of earning the usual revenue ~~and~~ of the storage accommodation. Orders were accordingly issued in G.O. No. 753 P.W. d/ 18-3-1947 directing the recovery of the ground rent at the Port Schedule of rates from the Stores for the period of occupation of the land in question.

2. The South Kanara Central Co-operative Wholesale Stores Ltd., Mangalore has prefered an appeal against the orders of the Govt. referred to above and the Demand Notice of the Port Officer, Mangalore for the payment of the rent on the following grounds:-

(1) Though the Stores was suffering from acute shortage of storage accommodation and the buildings in question were

obtained from the Military authorities through the Collector of South Kanara, there was no negotiations for settling terms and conditions of its occupancy. All along there was not even a whisper of the Stores having to pay any rent and without giving it a specific opportunity to show cause why it should not be charged rent the precipitate decision of the Govt. in G.O. No. 753 P.W., d/18-3-1947 has sprung a surprise on it. The order should be reconsidered in a liberal spirit untainted by considerations of revenue on technical grounds. The simple point emerging out of this affair is that Govt. is not legally competent to let into possession a party, a Government Agent, working as Govt. Project, without any notice of liability to pay rent at Port Schedule of rates. It deserves a better, more considerate and fair treatment at least in consideration of its publicly acknowledged ~~if common~~ yeoman service to Govt. The contention that the Stores is not a Department of the Govt. as contemplated in para 88(b) of the Port Manual and is therefore not entitled to rent free occupation of the Govt. lands is not tenable due to the fact that the food storage work is essentially of Govt. and the stores is a set-up of Govt. for this work done under Govt. control and direction at every step as a matter of Govt. The Stores further contends that it is not a holder of Port land as the Govt. have intervened, taken possession and allowed it to occupy the premises.

(ii) G.O. No. 753 P.W., d/18-3-1947 is contrary to the Food Deptt. Memorandum No. 5578 U/46-2, dated 10-4-1946 in which it was stated that the storage of food grains in the land by the Stores should be treated as a Govt. project. In as much as no reasons have been given and as the previous orders have not been overruled specifically, the former decision stands and the Stores is entitled to its unequivocal protection. It cannot be considered to have flouted the Govt. Order if it ~~declares~~ to pay the rent, and it cannot be called upon to pay rent especially at the Port Schedule of rates which Govt. themselves have held to be inapplicable to the Stores.

(iii) Even if it is considered that the Stores must pay the ground rent, the levy of the rent at the high Port Schedule of rates will be harrasing. The Stores has represented that it

p.t.o.

should not be treated as an ordinary civil tenant and charged a high rental. There is at least one precedent in G.O. No.777, P.W. dated 16-3-1944 the levy of rent at a concessional rate even where the plot was held, unlike in its case, direct under the Port Department. In the end it has stated that, in case its submissions are not complied with, a merciful and humane treatment might be given by charging a token rent..

(4) In respect of the demand notice for Rs. 3,096/- as rent for the buildings in the area at Rs. 258/- per mensem for the period from 20-12-1946 to 19-12-1947, the Stores has stated that the superstructure together with the jetty was purchased by the Port Deptt. for Rs. 12,000/- in all, and the rent demanded, viz., Rs. 258/- per mensem works out at more than 25% per annum as rent. Though the wooden quay is included in this, yet a separate rent of Rs. 10/- per annum is claimed as ground rent.

3. In forwarding the appeal, the Registrar of Co-operative Societies has stated that the Stores is the Sole Agents of Govt. for the procurement and distribution of paddy and rice for the entire district, and sale agents for Govt. for the export of and import into the district of food grains on Govt. account. In view of the vaulable services the Stores has been rendering to the public during these critical days of food shortage by undertaking and successfully carrying out the procurement and distribution work, its liability to pay the rent for the land and buildings might not be pressed. He has also stated that, as the Govt. have considered that the storage is a Govt. project, G.O. No. 753, P.W. d/ 18-3-1947 might be cancelled. He has further stated that if the Govt. however, consider it necessary to collect rent from the Stores a token sum instead of the heavy imposition might be collected. He has also supported the case of the stores for the free occupation of the buildings or of the levy of a nominal sum instead of the rent of Rs. 258/- now claimed by the Port Department.

4. The Collector of South Kanara to whom the case was referred to for remarks has replied on the four points raised

referred to in para 2 above as follows:-

(1). No Ground rent is leviable as there was no lease either previously agreed or understood knowlingly. There are no papers in his office to show that there has been any agreement between the Port authorities and the Stores regarding the payment of rent. The Stores however cannot claim ~~immunity~~ immunity for the levy of ground rent according to the provisions of the Port Manual because there is no lease deed. It is implied that the occupation of the Port lands is subject to the levy of ground rent as prescribed by the Govt. under the rules in Port Mannual.

(2) In Govt. Memo. No. 578 U/47-3, Food, d/ 10-4-1946, the Stores was treated as a Govt. Project. In the Memo. Govt. had declared that there was no legal objections to treating the storage of food grains by the Stores as a Govt. Project. But this view has to be considered to have been abandoned with the issue of G.O. No. 753 P.W. dated 18-3-1947. The storage by the Stores cannot be considered as a Govt. project simply because the stores happens to be the Collectors procurement agent in this district. It does not cease to to be a commercial enterprise because it is run on a co-operative basis.

(3) Even if rent is to be collected, a token sum may be levied. The Port Officer, Mangalore has reported that the financial position of the Mangglore landing and Shipping Fund is very weak at present due to increased operational cost of the Port, and a deficit of Rs. 16,298/- is expected at the end of the current year 1947-48, ~~of~~ R Any concession either in ground rent or in the rent of buildings would mean corresponding loss to the fund. The Stores was able to make a profit of Rs. 25,940-14-0 during 1944-5 and Rs. 55,088-14-0 during 1945-6, though the figures for 1946-47 are not yet known. There is no need to subsidise one concern at the expense of another. The Collector is of opinion that the Stores should pay the rent at the ordinary rates as it would if it were an ordinary private concern.

(4) The levy of rent on buildings works out at more than

p.t.o.

25% interest per annum. Though the buildings were purchased at a cost of Rs. 12,000/0 under the sanction accorded in G.O. No. 2913 P.W., d/ 6-11-1946 it is reported by the Port officer Mangalore that there is a great demand for the lands and buildings in question and the rent demanded for them is very favourable when compared with market rates for rent in similar accommodation in the vicinity. The precarious financial position of the ~~Madras~~ Mangalore Landing and Shipping Fund does not justify any reduction in rent. The Port is a quasi commercial concern and it has to depend on its earned revenue for its existence. The charges levied in this case are far less than they might be. The Stores is also a commercial concern and it should stand on its own feet. There is no justification for subsidising it at the expense of the Port authority. If any subsidy is necessary, it should be paid for by the Govt. out of its ordinary revenue.

5. In agreeing with the views of the Collector of South Kanara, the P.P.O. has stated that the contention of the ~~Re~~ gistrar of Copperative Societies that the buildings were purchased at a cost of Rs. 12,000/- is not correct as the cost represented only the salvage value against their estimated cost of Rs. 53,752/-. He has also stated that the salvage value paid was equal to the demolition value and this concession was given to the Port Deptt. in consideration of the fact that the buildings are on a site which has been reclaimed at a considerable expense by the Port authorities and in veiw of the fact that the Military authorities did not pay any ground rent for the period of their occupation except a nominal rent of Re.1/- per annum against Rs. 2568/- per annum due at the Port Schedule of rates. The data statement of rent works out to Rs. 258/- per annum. The Stores had admitted that not a bit of land or building are available except at fabulous prices.

The P.P.O. has also stated that the contention of the Stores that there was not even a whisper about payment of rent is not correct. He has pointed out that the Collector of S.K. in his letter to the P.O. Mangalore d/ 4-1-1947 stated that the temporary occupation by the Stores was subject to payment

of rent for the period of occupation and this communication was subsequent to the Govt. Memo. of April, 1946 directing the Collector to take over the premises formally on behalf of the Govt. for period already occupied and for which it was required further by the Stores. He has also pointed out that the Port and Marine Funds are expected to be self supporting and are not profit making concerns like the Stores. The Mangalore Landing and Shipping Fund cannot afford to lose the rent on land and building. The Stores can well afford to pay the rent at the prescribed rates from the profits made by it.

3. The circumstances that led to the issue of G.O. No. 753 P.W. dated 18-3-1947 are set out in para 1 on pp. 1-2 above. As pointed out by the P.P.O. and the Collector of South Kanara, the Mangalore Landing and Shipping Fund cannot afford to lose its revenue on account of the occupation of the Port lands by the Stores. The Collector of South Kanara considers that if a subsidy is necessary, it should be paid to the Stores by the Govt. out of its ordinary revenues.

4. The Stores however has quoted one precedent in which a concessional rate of rent was levied in respect of the A.R.P. Shelter at the Port of Calicut and used as a grain shop for distributing rice to tindals etc. In this case, the rent demanded on the basis of the Capital cost of the shelter viz.. Rs.15/- per ~~annum~~ was considered excessive by the Port officer Calicut and out of proportion to the gain that the occupant might get. In the ~~case~~ instance the Collector of ~~South Kanara has reported that~~ while the Stores has made a profit of Rs. 25,940-14-0 during 1944-45 and Rs. 55,088-14-0 during 1945-46, and the rent demanded ~~can be paid~~ from the profit. Attention is also invited to the views of the Food Secretary at p. 9 n.f. of G.O. No. 753, P.W./ 18-3-1947 that the Stores might pass on this expenditure to the consumer by raising the ~~price~~. In the circumstances set forth above, submitted for orders whether the Orders in G.O. No. 753, P.W. dated 18-3-1947 will be reconsidered. Food and Finance may perhaps see for remarks with ~~reference to~~ xxxxx

p.t.o.

remarks with reference to 'Z' on p. 7 ante. Please see ff 1-7 ante.
Attention is invited to pp 10-12 nf of (C).
There seems to be no case for modification (C)

13547

The Food Dept will please advise how far they have accepted the cost by their memo 578 dated 10-4-46. But for that memo this appeal could have been summarily rejected, as for the stores have made large profits & the Port is running at a loss.

Z

Ministry of Food /Fin

P.W.D. No. 2220F/47.4
22.9.47

Food Department(K)

THIRD ASSISTANT SECRETARY TO GOVERNMENT
23 SEP 1947
FOOD DEPARTMENT

To A.S.

P.W.D. notes from page 1 above may be perused. This file deals with the appeal of the S.Kanara Cooperative Whole-Sale Stores against the orders issued in G.O.No. 753. P.W. dated 18-3-1947. The orders issued in the G.O. were issued with the concurrence of this Department. Attention in this connection is invited to this Department's notes at pages 7-9 nf of flag(C). It will be seen therefrom that this Department have agreed to the levy of rent for the land and buildings being utilised by the stores in view of the explanation by the Port Trust and the orders issued in the G.O. mentioned above were in supersession of the orders issued in Memo.No. 578/UII/46-3 dated 10-4-1946. In view of the circumstances stated at pages 6-8 above, the orders issued in the G.O. need not be reconsidered. With these remarks the file may be passed on to Finance.

29.9.47

Please put up ff. containing original of memo no 578/UII/46-3 Food dated 10.4.46.

20.9.47

To A.S.

With reference above, it is submitted that the original of Memo no: 578/UII/46-3 Food dated 10.4.46 is not available in this Dept. Last year a thorough search was made in the CRB, Fort St. George, but the memo could not be traced. As the memo was issued in April 1946,

When the Food Dept was functioning in the Bd's office it was presumed that the original of the memo could have been left behind by mistake in the Bd's Record Branch and the Bd was asked to make a search and furnish the same. The Bd reported that it was not available in its records. The Bd's reply in this connection may be perused at p. 13 c/f Ha. After search in the CRB on receipt of the Bd's report also proved futile. (C). The original has been deemed as lost and action was taken only on the records furnished by the Collector of S. Kanara with his letter at p. 21 c/n ibid. The collector furnished a copy of the memo in question. All action that has so far been taken in the matter has be taken only with a copy of the memo as the basis

Please put up the Port Manual

30.9.47

2.10.47

To AS

With the orders above, it is informally learnt that the Port Manual has been put up in some file of the P.W. Department, and therefore it is not readily available.

6.X.47 6.X.47

The P.W.D. notes from p. 1 to p. 8 above may be perused. It is not possible to give a straight answer to the point raised at '7' on p. 8 above as the original of the memo referred to is unfortunately not traceable and no useful remarks could be offered in this regard without going through the notes and discussions leading to the issue of the memo in question. It is, however, clear

c/p.13 of

Stores has made profits
of the Stores wants to
the liability to pay rent in
the place that it is a Govt. pro
it cannot logically appro
the profits made by it as a
Govt project but should sit
hands them over to or man
them with the Govt. The Sto
cannot claim it both ways.
Attention is particularly
invited to paragraphs 'A' on p. 2,
'B' on p. 5 and 'C' on pp. 6-7 of
which digest may be found the
orders issued in Govt O.B.C.
(1947) on which it is requested not to be reconsider

Secy. / Fin.

There are no reasons why the orders issued in G.O. No.753. P.W. dated 18-3-1947 should be reconsidered. In the first place, the stores have made profits and if the argument that the project should be treated as a Government project is pressed to its logical conclusion, the profits should be necessarily made over to Government. If the co-operative wholesale stores are prepared to do so, Government will arrange to pay the rent etc. out of the profits transferred to them. But so long as the co-operative stores cling to the profits as belonging to them, their argument has no force.

The Collector's report also shows that the rent demanded is very fair and reasonable taking into account the locality and the present conditions prevailing in Mangalore. If the Cooperative stores had attempted to secure a building with such advantages as the one now in question, they ~~co-operative stores~~ would have had to pay more rent. There is therefore no valid ground to go back on the orders issued on 18-3-1947. If the Cooperative stores however consider that the rent is heavy, it is open to them to apply for a revision of the rates allowed to them; in which case the excess

12/

rent over and above what has already been recognized when the societies were given allowance for godown rent, handling charges, cart hire, etc. may be allowed to be passed on to the consumer by way of price increase. This can happen only if the rent actually demanded is in excess of the rent already allowed in favour of the society.

17/10/47

Finance (Accts-A) Department. Food & W.S. 5007/K/47-1

17 x 47

The file relates to the appeal petition submitted by the South Canara Wholesale Cooperative Stores Ltd Mangalore for a revision of the orders in G.O. No 753 P.W.D. 18/3/47 in regard to the payment of ground rent etc. for the area in the Mangalore fort which is in their occupation.

62625/Fin.
29 OCT 1947

The facts of the case have been set out clearly in the notes of P.W.D at pp 1-8 above which may be read. In the circumstances mentioned at pp 11-12 above, Food Secretary, considers that there are no reasons why the orders in G.O. no 753 P.W.D. 18/3/47 should be revised and has stated that if the Cooperative Wholesale Stores are prepared to make over the profits made by them to the Govt, the Govt may then arrange to pay the rent etc out of the profits transferred. Submitted that Finance may concur in the views expressed by Food Secretary. [The amount of rent etc due from the Stores is Rs 6,147-8-0 being the ground rent for the period from 1-1-46 to 31-12-47 and Rs 3,096, being the rent for the buildings for the period from 20-12-46 to 19-12-47. The Stores was able to make a profit of Rs 25,940-14-0 during 1944-5 and Rs 55,088-14-0 during 1945-6 and the figures for 1946-7 are not yet known]

Calk 24.X.47 Dsd

X

Accts PW 22.X.47 Dsd 20/10/47

The South Canara Central Co: operative wholesale Stores were using the lands and buildings belonging to the Mangalore Landing and Shipping fund

for storage purposes in the course of its business activities and should correctly pay rent for them as any private individual or firm. This is more so especially when the Govt themselves were paying rent for the storage accommodation needed by them in the port area and as the Stores have made good profits during 1944-5 and 1945-6 and presumably in 1946-7 also.

4 A on P.2 above

X on P.2 above

In the circumstances this Deptt may agree with the Food Secy that there is no case for reconsidering the orders issued by the Govt in the G.O. on p.23 C of

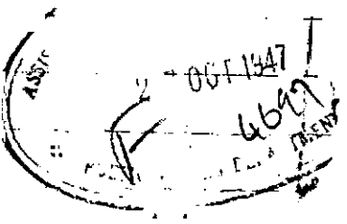
A on P11 abtd

Draft

Draft 24.X.47 $

24.X.47 PW (F) J

62625 AA-1 24-X-47



P.W.(F).

The file relates to the appeal of the South Kanara Central Co-operative Wholesale Stores Ltd.. against the levy of ground rent on lands and buildings belonging to the Port Deptt, and under their occupation. The lands in question (original) was requisitioned by the Collr. of South Kanara for the purpose of a Naval Subsidiary Fuelling Base. and placed at the disposal of the R.I.N. on 16.12.1942. The site was enclosed with barbed wire fencing by the R.I.N. Two big tiled buildings one building of medium dimension, three small ones, a car shed and a guard shed were constructed by the R.I.N. in the site. When the site was not required by the R.I.N. it was handed over to the Collr. of S.Kanara and he handed it over to the S.K.C.C.W. Stores Ltd. for the purpose of storing food grains with effect from 31.12.1945. under instructions in the Food Deptt. In Memo. No. 578 U.II/46-3. Food. dated 10.4.1946. Food Deptt. stated that there was no legal objection to treat the storage as a Govt. Project.

P7 4F/A

2. As the land was used for commercial purposes the

question of payment of rent by the Stores was raised by the P.P.O. who stated that the Stores was not a Deptt. of the Govt. as contemplated in para 88(b) of the Port Manual and as such it was not eligible for rent free concession. The Collr. of South Kanara & the Board of Revenue (Civil Supplies) considered that the Stores should pay the rent to the Port Deptt. Food Deptt. remarked that for the service rendered by the Society, the Govt. ~~instead~~ wished to protect it from paying a very high rental as any other civilian tenant would have to pay for the occupation of the site and presumably that was the reason for issuing orders as at 'A' ~~above~~ on p13 ante. But as the Govt. themselves were paying rent for the storage accommodation ~~need~~ required by them and a the Society was getting profits from its business ~~and none of its~~ paying no profits ~~accrued~~ to Govt. and as the Co-operative Stores might pass on the expenditure to the consumer by raising the price, ~~they~~ the Govt agreed with the Board of Rev. that the Stores should pay the rent. They also considered that the Port Deptt. should get back the chance of earning the usual Revenue on the storage accommodation. Orders were accordingly issued in G.O. No. 753 P.W., dated 18.3.1947 directing the recovery of the groundrm rent at the Port Schedule of rates ~~for~~ for the Stores for the period of their occupation of the land in question.

5. The South Kanara Central Copperative Wholesale Stores Ltd. ~~has applied~~ has appealed against the above orders for the reasons given below:

In respect of demand notice for Rs.6,147-8-0 as ground rent for the period 1.1.1946 to 31.12.1947.

(1) No rent is leviable as there was no lease previously agreed or understood knowingly.

(2) G.O. No. 753, P.W., dated 18.3.1947 is contrary to the orders in Memo. No. 573 U.II/46-3, dated 10.4.1946, directing that the Stores should be treated as a Government project.

~~(3)~~ Even if any rent is leviable, it should not be charged rent at the Port Schedule of rates but only a token sum should be charged.

In respect of the demand notice for Rs.3,096/- per annum for the period 20.12.1946-19.12.1947 as rent on Buildings:

(3)~~(4)~~ The Superstructure with the jetty was purchased by the Port Deptt. for Rs.12,000/- in all and the rent demanded works out at more than 25% per annum as rent. Though the Wooden Quay is included in this, a separate rent of Rs.10/- per annum is demanded.

4. In forwarding the appeal the Registrar of Cooperative Societies has stated that the Stores is the Sole Agent of Govt. for the procurement and distribution of paddy and rice for the entire district and in view of the valuable services the stores has been rendering to the public during these critical days of food shortage by undertaking and successfully carrying out the procurement and distribution work, he has suggested that orders in G.O No. 753, P.W., d/ 18.3.1947 might be cancelled or a token sum instead of the very heavy imposition might be collected.

5. The Collr. of South Kanara to whom the appeal was referred has stated that the Stores should pay the rent according to the Port Schedule of Rates for the following reasons:-

(1) The Stores cannot claim immunity from the levy of ground rent according to the provisions of Port Manual on the ground that there is no lease deed. It is implied that the occupation of Port land is subject to the levy of ground rent as prescribed by the Government under the Rules in the Port Manual.

(2) The view that there was no legal objections to treat the storage of food grains by the Stores as a Govt. project should be deemed to have been abandoned with the issue of order in G.O. No. 700, r.w., dated 18.3.1947 The storage by the Stores cannot be considered as a Government project simply because the stores happens to be the Collector's procurement agent in S.K. District. It does not cease to be a commercial concern because it is run on a copperative basis.

(3) The financial position of the Mangalore Landing & Shipping Fund is very weak and a deficit of Rs. 16,298/- is expected at the end of the current year 1947-48. Any concession in ground rent and the rent on buildings would mean corresponding loss to the Mangalore Landing & Shipping Fund. The Stores was

able to make a profit of Rs. 25,940/14/0 during 1944-45 and Rs. 55,088.14.0 during 1945-6. There is no need to subsidise one concern at the expense of the other.

(4) There is a great demand for the lands and buildings in question and the rent demanded for the buildings is very favourable when compared with market rates for rent in similar accommodation in the vicinity. If any subsidy to the Stores ~~to the Stores~~ is necessary, it should be paid by the Govt. out of its ordinary revenues.

5. In agreeing with the views of the Collector, the P.P.O. has stated that the contention that the buildings were purchased at a cost of Rs. 12000/- is not correct as the cost represented only the salvage value against the estimated cost (of Rs 55752/-) and that the salvage value (paid) was equal to the demolition value and this concession was given to the Port Deptt. in view of the fact that the lands were reclaimed at a considerable expense by the Port Deptt. and the Military authorities did not pay any ground rent for the period of their occupation except a nominal rent of Re.1/- p.a. (against Rs 2,568/- p.a. due at the Port Schedule of rates) He has also stated that the contention of the Stores that there was not even a whisper about the payment of rent is not correct as will be evidenced by the letter of the Collr. of S.K. to ~~and~~ the E.P.O. Mangalore, dated 4.1.1947. He has further stated that the Port and Marine Funds are expected to be self supporting and are not profit making concerns like the Stores and the Stores can well afford to pay the rent at the prescribed rates from the profits made by it.

6. This Deptt. requested the Food Deptt. to advise how far they have committed the Govt. by their Memo. No. 578 U.II/46-3, dated 10.4.1946 and stated that but for the memo the appeal could have been summarily rejected as the Stores had made large profits and that the Port was running at a loss. Food Dept ~~They~~ have stated that there are no reasons why the orders in G.O. No. 753, PuW., dated 18.3.1947 ordering the recovery of rent from the South Kanara Central Cooperative Wholesale Stores, Ltd. for the period of their occupation of Port Land

in the South Reclamation area at the Port of Mangalore should be reconsidered for the following reasons:-

(1) The Stores have made profits and if the argument that the Stores should be treated as a Govt. project ~~the profit~~ is pressed to its logical conclusion the profits should necessarily be made over to Govt. If the Stores are prepared to do so, the Govt. will arrange to pay the rent etc. out of the profits transferred to them. So long as the Stores cling to the profits as belonging to them, their argument has no force; and

(2) The Collr's report shows that the rent deemed is very fair and reasonable, taking into account the locality and the present conditions prevailing at Mangalore. If the cooperative Stores had attempted to secure a building with such advantages as the one now in question they would have had to pay more rent. If the Stores however consider that the rent is heavy it is open to them to apply for a revision of the ~~rates~~ rate allowed to them in which case the excess rent over and above what has already been recognized when the Societies were given allowance for godown rent, handling charges, cart hire etc. may be allowed to be passed on to the consumer by way of price increase. This can happen only if the rent actually demanded is in excess of the rent already allowed in favour of the Society.

7. Finance have stated that the South Kanara Central Cooperative Wholesale Stores were using the lands and Buildings belonging to the Mangalore Landing and Shipping Fund for storage purposes in the course of its business activities and should correctly pay rent for them as any private individual or firm and this is more so especially when the Govt. themselves were paying rent for the storage accommodation needed by them in the Port area and as the Stores have made good profits during 1944-45 and 1945-46 and presumably in 1946-47 also. In the circumstances they have agreed with the Food Secretary that there is no case for reconsideration of the orders in G.O. No. 753, P.W., dated 18.3.1947. The President of the South Kanara Centra

p.t.o.

Cooperative Wholesale Stores/Mangalore, may be informed accordingly Draft Order below is for approval. The file may be circulated to H.M.(P.W.) and H.M.(Food.).

10.11.47
Kow
11.11.47

The file relates to the appeal of the S. Kanara-Central Co-operative Wholesale Stores Ltd, Mangalore, against the order in G.O.No. 753 P.W. dt 18-3-47 regarding the recovery of rent for the lands and buildings under the occupation of the Stores within the Mangalore Port limits. The reasons urged now are those mentioned in para 3 on pp 14-15 ante, which are dealt with below:-

Item (1) - There was no lease for the purpose either agreed or understood. This is not correct in view of the Collector's letter at M on p 23 C.F., stipulating payment of rent by the Stores

Item (2) - The Govt have directed that the Stores should be treated as a Govt project - Vide Memo at p 7 C.F. The order in the G.O. at (2) cannot, it seems, be considered to be inconsistent with the Memo at p 7 C.F., for it is not a high rent, but a very favourable rent that has been charged to the Stores - Vide A of the Collector's letter at p 17 C.F. Also it may be mentioned that inter-departmental payments are sometimes necessary even in the case of Govt projects.

The Food deptt also points out that if the view that the Stores be treated as a Govt project is drawn to its logical conclusion, the large profits earned by the Stores should be treated as belonging to the

Item (3) - The rent charged is excessively high, working out to more than 25% -. para 3 on p 9 C.F. This also cannot be accepted in view of M at p 16 ante.

The financial position of the Mangalore L. & S. Fund which is in a deficit state, does not also admit of any reconsideration of the orders already passed.

Finance deptt also agree that no reconsideration

2220 F/41

1 p.c.F 4/12 C.F.

If the previous order is necessary. In the circumstances in regard to the Stores, which is supported only by the Registrar of Co-operative ~~Stores~~ may be rejected. Draft order below may issue after approval by H.M.(P.W.) H.M.(~~Food~~ C.A.) and H.M.(Food).

13.11.47 S/ HM(PW) / HM(CA)

may issue

14-11-47

HM(PW) / HM(CA) / HM(Food)

May issue

21/11

26/11

Issue the draft

27.11.47